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PART IV

Section—1-B.

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION

No. L.D. 568—Legis. 2-50-18, dated Bangalore, 27th May 1950.

Ordered that the accompanying Army Act, 1950 (XLVI of 1950) published in the *Gazette of India*, dated the 23rd May 1950, be republished in the *Mysore Gazette*, for general information.

By Order of

His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA

MINISTRY OF LAW

(Received assent on 20th May 1950)

THE ARMY ACT, 1950 (XLVI OF 1950)

AN

ACT

to consolidate and amend the law relating to the government of the regular Army.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(*1*) This Act may be called the Army Act, 1950.

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(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. *Persons subject to this Act.*—(1) The following persons shall be subject to this Act wherever they may be, namely :—

(a) officers, junior commissioned officers and warrant officers of the regular Army;

(b) persons enrolled under this Act;

(c) persons belonging to the Indian Reserve Forces;

(d) persons belonging to the Indian Supplementary Reserve Forces when called out for service or when carrying out the annual test;

(e) officers of the Territorial Army, when doing duty as such officers, and enrolled persons of the said Army when called out or embodied or attached to any regular forces, subject to such adaptations and modifications as may be made in the application of this Act to such persons under sub-section (1) of section 9 of the Territorial Army Act, 1948 (LVI of 1948);

(f) persons holding commissions in the Army in India Reserve of Officers, when ordered on any duty or service for which they are liable as members of such reserve forces;

(g) officers appointed to the Indian Regular Reserve of Officers, when ordered on any duty or service for which they are liable as members of such reserve forces;

(h) persons belonging to the land forces of a part B State, when such persons are attached to any body of the regular Army for service, or when the whole or a part of the said forces is acting with any body of the regular Army or is placed at the disposal of the Central Government in pursuance of a notification under section 5;

(i) persons not otherwise subject to military law who, on active service, in camp, on the march or at any frontier post specified by the Central Government by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, the regular Army.

(2) Every person subject to this Act under clauses (a) to (h) of sub-section (1) shall remain so subject until duly retired, discharged, released, removed, dismissed or cashiered from the service.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(i) "active service", as applied to a person subject to this Act, means the time during which such person—

(a) is attached to, or forms part of, a force which is engaged in operation against an enemy, or

(b) is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or

(c) is attached to or forms part of a force which is in military occupation of a foreign country;

(ii) "civil offence" means an offence which is triable by a criminal court;

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(*iii*) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894 (IX of 1894), or under any other law for the time being in force;

(*iv*) "Commander-in-Chief" means the officer commanding-in-chief the regular Army;

(*v*) "commanding officer", when used in any provision of this Act, with reference to any separate portion of the regular Army or to any department thereof, means the officer whose duty it is under the regulations of the regular Army, or in the absence of any such regulations, by the custom of the service, to discharge with respect to that portion of the regular Army or that department, as the case may be, the functions of a commanding officer in regard to matters of the description referred to in that provision;

(*vi*) "corps" means any separate body of persons subject to this Act, which is prescribed as a corps for the purposes of all or any of the provisions of this Act;

(*vii*) "court-martial" means a court-martial held under this Act;

(*viii*) "criminal court" means a court of ordinary criminal justice in any part of India, other than the State of Jammu and Kashmir;

(*ix*) "department" includes any division or branch of a department;

(*x*) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to military law to act;

(*xi*) "the Forces" means the regular Army, Navy and Air Force or any part of any one or more of them;

(*xii*) "junior commissioned officer" means a person commissioned, gazetted or in pay as a junior commissioned officer in the regular Army or the Indian Reserve Forces, and includes a person holding a junior commission in the Indian Supplementary Reserve Forces, or the Territorial Army or a junior or equivalent commission in the land forces of a Part B State, who is for the time being subject to this Act;

(*xiii*) "military custody" means the arrest or confinement of a person according to the usages of the service and includes naval or air force custody;

(*xiv*) "military reward" includes any gratuity or annuity for long service or good conduct, good service pay or pension, and any other military pecuniary reward;

(*xv*) "non-commissioned officer" means a person holding a non-commissioned rank or an acting non-commissioned rank in the regular Army or the Indian Reserve Forces, and includes a non-commissioned officer or acting non-commissioned officer of the Indian Supplementary Reserve Forces or the territorial Army or the land forces of a Part B State, who is for the time being subject to this Act;

(*xvi*) "notification" means a notification published in the Official Gazette;

(*xvii*) "offence" means any act or omission punishable under this Act and includes a civil offence as hereinbefore defined;

(*xviii*) "officer" means a person commissioned, gazetted or in pay as an officer in the regular Army, and includes—

(*a*) an officer of the Indian Reserve Forces;

(*b*) an officer holding a commission in the Territorial Army granted by the President with designation of rank corresponding to that of an officer of the regular Army who is for the time being subject to this Act;

(*c*) an officer of the Army in India Reserve of Officers who is for the time being subject to this Act;

(*d*) an officer of the Indian Regular Reserve of Officers who is for the time being subject to this Act;

(*e*) an officer of the land forces of any Part B State who is for the time being subject to this Act;

(*f*) in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the Navy or Air Force;

but does not include a junior commissioned officer, warrant officer, petty officer or non-commissioned officer;

(*xix*) "prescribed" means prescribed by rules made under this Act;

(*xx*) "provost-marshal" means a person appointed as such under section 107 and includes any of his deputies or assistants or any other person legally exercising authority under him or on his behalf;

(*xxi*) "regular Army" means officers, junior commissioned officers, warrant officers, non-commissioned officers and other enrolled persons who, by their commission, warrant, terms of enrolment or otherwise, are liable, to render continuously for a term military service to the Union in any part of the world, including persons belonging to the Reserve Forces and the Territorial Army when called out on permanent service;

(*xxii*) "regulation" includes a regulation made under this Act;

(*xxiii*) "superior officer", when used in relation to a person subject to this Act, includes a junior commissioned officer, warrant officer and a non-commissioned officer, and, as regards persons placed under his orders, an officer, warrant officer, petty officer and non-commissioned officer of the Navy or Air Force;

(*xxiv*) "warrant officer" means a person appointed, gazetted or in pay as a warrant officer of the regular Army or of the Indian Reserve Forces, and includes a warrant officer of the Indian Supplementary Reserve Forces or of the Territorial Army or of the land forces of a Part B State who is for the time being subject to this Act;

(*xxv*) all words and expressions used but not defined in this Act and defined in the Indian Penal Code (Act XLV of 1860) shall be deemed to have the meanings assigned to them in that Code.

CHAPTER II

Special Provisions for the Application of Act in certain cases

4. *Application of Act to certain forces under Central Government.*—(*1*) The Central Government may, by notification, apply, with or without

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modifications, all or any of the provisions of this Act to any force raised and maintained in India under the authority of that Government, including any force maintained by a Part B State, and suspend the operation of any other enactment for the time being applicable to the said force.

(2) The provisions of this Act so applied shall have effect in respect of persons belonging to the said force as they have effect in respect of persons subject to this Act holding in the regular Army the same or equivalent rank as the aforesaid persons hold for the time being in the said force.

(3) The provisions of this Act so applied shall also have effect in respect of persons who are employed by or are in the service of or are followers of or accompany any portion of the said force as they have effect in respect of persons subject to this Act under clause (*i*) of section 2.

(4) While any of the provisions of this Act apply to the said force, the Central Government may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of the said force.

5. *Application of Act to forces of Part B States.*—(1) The Central Government may, by notification, direct that any person or persons belonging to the land forces of any Part B State shall be attached to any body of the regular Army or that the whole or a part of the said forces shall act with any body of the regular Army, or shall be placed at the disposal of the Central Government, and thereupon the persons so attached and members of the said force shall become subject to this Act.

(2) The relative rank of officers, junior commissioned officers, warrant officers and non-commissioned officers of such forces and of the regular Army shall be such as may be determined by the Central Government or by such other authority as may be prescribed.

6. *Special provision as to rank in certain cases.*—(1) The Central Government may, by notification, direct that any persons or class of persons subject to this Act under clause (*i*) of section 2 shall be so subject as officers, junior commissioned officers, warrant officers or non-commissioned officers and may authorise any officer to give a like direction and to cancel such direction.

(2) All persons subject to this Act other than officers, junior commissioned officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

7. *Commanding officer of persons subject to military law under clause (i) of section 2.*—(1) Every person subject to this Act under clause (*i*) of section 2 shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, department, or detachment, if any, to which he is attached, and, if he is not so attached, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person for the time being is serving, or any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force.

(2) An officer commanding a force shall not place a person subject to this Act under clause (*i*) of section 2 under the command of an officer of rank inferior to that of such person, if there is present at the place where such person is any officer of a higher rank under whose command he can be placed.

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8. *Officers exercising powers in certain cases.*—(*1*) Whenever persons subject to this Act are serving under an officer commanding any military organisation, not in this section specifically named and being in the opinion of the Central Government not less than a brigade, that Government may prescribe the officer by whom the powers, which under this Act may be exercised by officers commanding armies, army corps, divisions and brigades, shall, as regards such persons, be exercised.

(*2*) The Central Government may confer such powers, either absolutely or subject to such restrictions, reservations, exceptions and conditions, as it may think fit.

9. *Power to declare persons to be on active service.*—Notwithstanding anything contained in clause (*i*) of section 3, the Central Government may, by notification, declare that any person or class of persons subject to this Act shall, with reference to any area in which they may be serving or with reference to any provision of this Act or of any other law for the time being in force, be deemed to be on active service within the meaning of this Act.

CHAPTER III

Commission, Appointment and Enrolment

10. *Commission and appointment.*—The President may grant, to such person as he thinks fit, a commission as an officer, or as a junior commissioned officer or appoint any person as a warrant officer of the regular Army.

11. *Ineligibility of aliens for enrolment.*—No person who is not a citizen of India shall, except with the consent of the Central Government signified in writing, be enrolled in the regular Army:

Provided that nothing contained in this section shall bar the enrolment of the subjects of Nepal in the regular Army.

12. *Ineligibility of females for enrolment or employment.*—No female shall be eligible for enrolment or employment in the regular Army, except in such corps, department, branch or other body forming part of, or attached to any portion of, the regular Army as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that nothing contained in this section shall affect the provisions of any law for the time being in force providing for the raising and maintenance of any service auxiliary to the regular Army or any branch thereof in which females are eligible for enrolment or employment.

13. *Procedure before enrolling officer.*—Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

14. *Mode of enrolment.*—If, after complying with the provisions of section 13, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of

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service, and if such officer perceives no impediment, he shall sign and shall also cause such person to sign the enrolment paper, and such person shall thereupon be deemed to be enrolled.

15. *Validity of enrolment.*—Every person who has for the space of three months been in receipt of pay as a person enrolled under this Act and been borne on the rolls of any corps or department shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of any irregularity or illegality in his enrolment or on any other ground whatsoever; and if any person, in receipt of such pay and borne on the rolls as aforesaid, claims his discharge before the expiry of three months from his enrolment, no such irregularity or illegality or other ground shall, until he is discharged in pursuance of his claim, affect his position as an enrolled person under this Act or invalidate any proceeding, act or thing taken or done prior to his discharge.

16. *Persons to be attested.*—The following persons shall be attested, namely:—

(*a*) all persons enrolled as combatants;

(*b*) all persons selected to hold a non-commissioned or acting non-commissioned rank; and

(*c*) all other persons subject to this Act as may be prescribed by the Central Government.

17. *Mode of attestation.*—(*1*) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his corps or such portion thereof or such members of his department as may be present, or by any other prescribed person.

(*2*) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will bear true allegiance to the Constitution of India as by law established, and that he will serve in the regular Army and go wherever he is ordered by land, sea or air, and that he will obey all commands of any officer set over him, even to the peril of his life.

(*3*) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

CHAPTER IV

Conditions of Service

18. *Tenure of service under the Act.*—Every person subject to this Act shall hold office during the pleasure of the President.

19. *Termination of service by Central Government.*—Subject to the provisions of this Act and the rules and regulations made thereunder the Central Government may dismiss, or remove from the service, any person subject to this Act.

20. *Dismissal, removal or reduction by Commander-in-Chief and by other officers.*—(*1*) The Commander-in-Chief may dismiss or remove from the service any person subject to this Act other than an officer,

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(2) The Commander-in-Chief may reduce to a lower grade or rank or the ranks, any warrant officer or any non-commissioned officer.

(3) An officer having power not less than a brigade or equivalent commander or any prescribed officer may dismiss or remove from the service any person serving under his command other than an officer or a junior commissioned officer.

(4) Any such officer as is mentioned in sub-section (3) may reduce to a lower grade or rank or the ranks, any warrant officer or any non-commissioned officer under his command.

(5) A warrant officer reduced to the ranks under this section shall not, however, be required to serve in the ranks as a sepoy.

(6) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer, or if he has no permanent grade above the ranks, to the ranks.

(7) The exercise of any power under this section shall be subject to the said provisions contained in this Act and the rules and regulations made thereunder.

21. *Power to modify certain fundamental rights in their application to persons subject to this Act.*—Subject to the provisions of any law for the time being in force relating to the regular Army or to any branch thereof, the Central Government may, by notification, make rules, restricting to such extent and in such manner as may be necessary the right of any person subject to this Act—

(a) to be a member of, or to be associated in any way with, any trade union or labour union, or any class of trade or labour unions or any society, institution or association, or any class of societies, institutions or associations;

(b) to attend or address any meeting or to take part in any demonstration organised by any body of persons for any political or other purposes;

(c) to communicate with the press or to publish or cause to be published any book, letter or other document.

22. *Retirement, release or discharge.*—Any person subject to this Act may be retired, released or discharged from the service by such authority and in such manner as may be prescribed.

23. *Certificate on termination of service.*—Every junior commissioned officer, warrant officer, or enrolled person who is dismissed, removed, discharged, retired or released from the service shall be furnished by his commanding officer with a certificate, in the language which is the mother tongue of such person and also in the English language setting forth—

(a) the authority terminating his service;

(b) the cause for such termination; and

(c) the full period of his service in the regular Army.

24. *Discharge or dismissal when out of India.*—(1) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of India,

and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(*2*) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

(*3*) Where any such person as is mentioned in sub-section (*2*) is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of transportation or imprisonment, a portion of such sentence may be inflicted before he is sent to India.

(*4*) For the purposes of this section, the word "discharge" shall include release, and the word "dismissal" shall include removal.

CHAPTER V

Service Privileges

25. *Authorised deductions only to be made from pay.*—The pay of every person subject to this Act due to him as such under any regulation for the time being in force shall be paid without any deduction other than the deductions authorised by or under this or any other Act.

26. *Remedy of aggrieved persons other than officers.*—(*1*) Any person subject to this Act other than an officer who deems himself wronged by any superior or other officer may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

(*2*) When the officer complained against is the officer to whom any complaint should, under sub-section (*1*), be preferred, the aggrieved person may complain to such officer's next superior officer.

(*3*) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or, when necessary, refer the complaint to superior authority.

(*4*) Every such complaint shall be preferred in such manner as may from time to time be specified by the proper authority.

(*5*) The Central Government may revise any decision by the Commander-in-Chief under sub-section (*2*), but, subject thereto, the decision of the Commander-in-Chief shall be final.

27. *Remedy of aggrieved officers.*—Any officer who deems himself wronged by his commanding officer or any superior officer and who on due application made to his commanding officer does not receive the redress to which he considers himself entitled, may complain to the Central Government in such manner as may from time to time be specified by the proper authority.

28. *Immunity from attachment.*—Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached by direction of any civil or revenue court or any revenue officer in satisfaction of any decree or order enforceable against him.

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29. *Immunity from arrest for debt.*—(*1*) No person subject to this Act shall, so long as he belongs to the Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue officer.

(*2*) The judge of any such court or the said officer may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(*3*) For the recovery of such costs no court-fee shall be payable by the complainant.

30. *Immunity of persons attending courts-martial from arrest.*—(*1*) No presiding officer or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial shall, while proceeding to, attending, or returning from, a court-martial, be liable to arrest under civil or revenue process.

(*2*) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

31. *Privileges of reservists.*—Every person belonging to the Indian Reserve Forces shall, when called out for or engaged in or returning from, training or service, be entitled to all the privileges accorded by sections 28 and 29 to a person subject to this Act.

32. *Priority in respect of army personnel's litigation.*—(*1*) On the presentation to any court by or on behalf of any person subject to this Act of a certificate from the proper military authority of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(*2*) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(*3*) No fee shall be payable to the court in respect of the presentation of any such certificate, or of any application by or on behalf of any such person, for priority for the hearing of his case.

(*4*) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for its inability to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(*5*) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall at once be referred by the court to an officer having power not less than a brigade or equivalent commander whose decision shall be final.

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33. *Saving of rights and privileges under other laws.*—The rights and privileges specified in the preceding sections of this Chapter shall be in addition to, and not in derogation of, any other rights and privileges conferred on persons subject to this Act or on members of the regular Army, Navy and Air Force generally by any other law for the time being in force.

CHAPTER VI

Offences

34. *Offences in relation to the enemy and punishable with death.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) shamefully abandons or delivers up any garrison, fortress, post, place or guard, committed to his charge, or which it is his duty to defend, or uses any means to compel or induce any commanding officer or other person to commit any of the said acts; or

(*b*) intentionally uses any means to compel or induce any person subject to military, naval or air force law to abstain from acting against the enemy, or to discourage such person from acting against the enemy; or

(*c*) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(*d*) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or

(*e*) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies; or

(*f*) treacherously or through cowardice sends a flag of truce to the enemy; or

(*g*) in time of war or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or

(*h*) in time of action leaves his commanding officer or his post, guard, picquet, patrol or party without being regularly relieved or without leave; or

(*i*) having been made a prisoner of war, volunteerily serves with or aids the enemy; or

(*j*) knowingly harbours or protects an enemy not being a prisoner; or

(*k*) being a sentry in time of war or alarm, sleeps upon his post or is intoxicated; or

(*l*) knowingly does any act calculated to imperil the success of the military, naval or air forces of India or any forces co-operating therewith or any part of such forces;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

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35. *Offences in relation to the enemy and not punishable with death.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner, fails to rejoin his service when able to do so; or

(*b*) without due authority holds correspondence with or communicates intelligence to the enemy or having come by the knowledge of any such correspondence or communication, wilfully omits to discover it immediately to his commanding or other superior officer; or

(*c*) without due authority sends a flag of truce to the enemy;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

36. *Offences punishable more severely on active service than at other times.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) forces a safeguard, or forces or uses criminal force to a sentry; or

(*b*) breaks into any house or other place in search of plunder; or

(*c*) being a sentry sleeps upon his post, or is intoxicated; or

(*d*) without orders from his superior officer leaves his guard, picquet, patrol or post; or

(*e*) intentionally or through neglect occasions a false alarm in camp, garrison, or quarters; or spreads reports calculated to create unnecessary alarm or despondency; or

(*f*) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or countersign different from what he received;

shall, on conviction by court-martial,

if he commits any such offence when on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if he commits any such offence when not on active service, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

37. *Mutiny.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) begins, incites, causes, or conspires with any other persons to cause any mutiny in the military, naval or air forces of India or any forces co-operating therewith; or

(*b*) joins in any such mutiny; or

(*c*) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(*d*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his commanding or other superior officer; or

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(*e*) endeavours to seduce any person in the military, naval or air forces of India from his duty or allegiance to the Union;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

38. *Desertion and aiding desertion.*—(*1*) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial,

if he commits the offence on active service or when under orders for active service, be liable to suffer death or such less punishment as is in this Act mentioned; and

if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who, knowingly harbours any such deserter shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*3*) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

39. *Absence without leave.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) absents himself without leave; or

(*b*) without sufficient cause overstays leave granted to him; or

(*c*) being on leave of absence and having received information from proper authority that any corps, or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay; or

(*d*) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(*e*) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(*f*) when in camp or garrison or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(*g*) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

40. *Striking or threatening superior officers.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) uses criminal force to or assaults his superior officer; or

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(*b*) uses threatening language to such officer; or

(*c*) uses insubordinate language to such officer;

shall, on conviction by court-martial,

if such officer is at the time in the execution of his office or, if the offence is committed on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of an offence specified in clause (*c*), the imprisonment shall not exceed five years.

41. *Disobedience to superior officer.*—(*1*) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who disobeys any lawful command given by his superior officer shall on conviction by court-martial,

if he commits such offence when on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if he commits such offence when not on active service, be liable to suffer imprisonment for a term which may extend to five years or such less imprisonment as is in this Act mentioned.

42. *Insubordination and obstruction.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being concerned in any quarrel, affray, or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(*b*) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not superior officer; or

(*c*) resists an escort whose duty it is to apprehend him or to have him in charge; or

(*d*) breaks out of barracks, camp or quarters; or

(*e*) neglects to obey any general, local or other order; or

(*f*) impedes the provost-marshal or any person lawfully acting on his behalf, or when called upon, refuses to assist in the execution of his duty a provost-marshal or any person lawfully acting on his behalf; or

(*g*) uses criminal force to or assaults any person bringing provisions or supplies to the forces;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (*d*) and (*e*) to two years, and in the case of the offences specified in the other clauses to ten years, or such less punishment as is in this Act mentioned.

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43. *Fraudulent enrolment.*—Any person subject to this Act who commits any of the following offiences, that is to say,—

(*a*) without having obtained a regular discharge from the corps or department to which he belongs, or otherwise fulfilled the conditions enabling him to enrol or enter, enrols himself in, or enters the same or any other corps or department or any part of the naval or air forces of India or the Territorial Army; or

(*b*) is concerned in the enrolment in any part of the Forces of any person when he knows or has reason to believe such person to be so circumstanced that by enrolling he commits an offence against this Act;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

44. *False answers on enrolment.*—Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

45. *Unbecoming conduct.*—Any officer, junior commissioned officer or warrant officer who behaves in a manner unbecoming his position and the character expected of him shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and, if he is a junior commissioned officer or a warrant officer, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

46. *Certain forms of disgraceful conduct.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(*b*) malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or

(*c*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

47. *Ill-treating a subordinate.*—Any officer, junior commissioned officer, warrant officer or non-commissioned officer who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

48. *Intoxication.*—(*1*) Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and, if he is not an officer, be liable,

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subject to the provisions of sub-section (2), to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(2) Where an offence of being intoxicated is committed by a person other than an officer when not on active service or not on duty, the period of imprisonment awarded shall not exceed six months.

49. *Permitting escape of person in custody.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) when in command of a guard, picquet, patrol or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

(b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard;

shall, on conviction by court-martial, be liable, if he has acted wilfully to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

50. *Irregularity in connection with arrest or confinement.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to military custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

51. *Escape from custody.*—Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

52. *Offences in respect of property.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits theft of any property belonging to the Government, or to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

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(*d*) dishonestly receives or retains any such property in respect of which any of the offences under clauses (*a*), (*b*) and (*c*) has been committed, knowing or having reason to believe the commission of such offence; or

(*e*) wilfully destroys or injures any property of the Government entrusted to him; or

(*f*) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

53. *Extortion and corruption.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) commits extortion; or

(*b*) without proper authority exacts from any person money, provisions or service;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

54. *Making away with equipment.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(*b*) loses by neglect anything mentioned in clause (*a*); or

(*c*) sells, pawns, destroys or defaces any medal or decoration granted to him;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend in the case of the offences specified in clase (*a*) to ten years, and in the case of the offences specified in the other clauses to five years, or such less punishment as is in this Act mentioned.

55. *Injury to property.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) destroys or injures any property mentioned in clause (*a*) of section 54 or any property belonging to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law, or serving with, or attached to, the regular Army; or

(*b*) commits any act which causes damage to, or destruction of, any property of the Government by fire; or

(*c*) kills, injures, makes away with, ill-treats or loses any animal entrusted to him;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

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56. *False accusations.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(*b*) in making a complaint under section 26 or section 27 makes any statement affecting the character of any person subject to this Act, knowing or having reason to believe such statement to be false or knowingly and wilfully supresses any material facts:

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

57. *Falsifying official documents and false declaration.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of any false or fraudulent statement; or

(*b*) in any document of the description mentioned in clause (*a*) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(*c*) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(*d*) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(*e*) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

58. *Signing in blank and failure to report.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government fraudulently leaves in blank any material part for which his signature is a voucher; or

(*b*) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

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59. *Offences relating to courts-martial.*—Any person subject to this Act who commits any of the following offences, that is say,—

(*a*) being duly summoned or ordered to attend as a witness before a court-martial, wilfully or without reasonable excuse, makes default in attending; or

(*b*) refuses to take an oath or make an affirmation legally required by a court-martial to be taken or made; or

(*c*) refuses to produce or deliver any document in his power or control legally required by a court-martial to be produced or delivered by him; or

(*d*) refuses when a witness to answer any question which he is by law bound to answer; or

(*e*) is guilty of contempt of court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

60. *False evidence.*—Any person subject to this Act who, having been duly sworn or affirmed before any court-martial or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

61. *Unlawful detention of pay.*—Any officer, junior commissioned officer, warrant officer or non-commissioned officer who, having received pay of a person subject to this Act unlawfully detains or refuses to pay the same which due, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

62. *Offences in relation to aircraft and flying.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) wilfully or without reasonable excuse damages, destroys or loses any aircraft or aircraft material belonging to the Government; or

(*b*) is guilty of any act or neglect likely to cause such damage, destruction or loss; or

(*c*) without lawful authority disposes of any aircraft or aircraft material belonging to the Government; or

(*d*) is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person; or

(*e*) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration, by or under the authority of a neutral State, or the destruction in a neutral State of any aircraft belonging to the Government;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less

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punishment as is in this Act mentioned, and, in any other case, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

63. *Violation of good order and discipline.*—Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and military discipline shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

64. *Miscellaneous offences.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority ; or

(*b*) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person ; or

(*c*) attempts to commit suicide, and in such attempt does any act towards the commission of such offence ; or

(*d*) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazar, carrying a rifle, sword or other offensive weapon ; or

(*e*) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service ; or

(*f*) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving ;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

65. *Attempt.*—Any person subject to this Act who attempts to commit any of the offences specified in sections 34 to 64 inclusive and in such attempt does any act towards the commission of the offence shall, on conviction by court-martial, where no express provision is made by this Act for the punishment of such attempt, be liable,

if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned ; and

if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

66. *Abetment of offences that have been committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 64 inclusive shall, on conviction by court-martial, if the Act

abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

67. *Abetment of offences punishable with death and not committed.*—Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 34, 37 and sub-section (*1*) of section 38 shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

68. *Abetment of offences punishable with imprisonment and not committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 64 inclusive and punishable with imprisonment shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

69. *Civil offences.*—Subject to the provisions of section 70, any person subject to this Act who at any place in or beyond India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section, shall be liable to be tried by a court-martial and, on conviction, be punishable as follows, that is to say,—

(*a*) if the offence is one which would be punishable under any law in force in India with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(*b*) in any other case, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

70. *Civil offences not triable by court-martial.*—A person subject to this Act who commits an offence of murder against a person not subject to military, naval or air force law, or of culpable homicide not amounting to murder against such a person or of rape in relation to such a person, shall not be deemed to be guilty of an offence against this Act and shall not be tried by a court-martial, unless he commits any of the said offences—

(*a*) while on active service, or

(*b*) at any place outside India, or

(*c*) at a frontier post specified by the Central Government by notification in this behalf.

Explanation.—In this section and in section 69, "India" does not include the State of Jammu and Kashmir.

CHAPTER VII

PUNISHMENTS

71. *Punishments awardable by courts-martial.*—Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by courts-martial, according to the scale following, that is to say,—

(*a*) death ;

(*b*) transportation for life or for any period not less than seven years ;

(*c*) imprisonment, either rigorous or simple, for any period not exceeding fourteen years ;

(*d*) cashiering, in the case of officers ;

(*e*) dismissal from the service ;

(*f*) reduction to the ranks or to a lower rank or grade or place in the list of their rank, in the case of warrant officers ; and reduction to the ranks or to a lower rank or grade, in the case of non-commissioned officers :

Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy ;

(*g*) forfeiture of seniority of rank, in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers ; and forfeiture of all or any part of their service for the purpose of promotion, in the case of any of them whose promotion depends upon length of service ;

(*h*) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose ;

(*i*) severe reprimand or reprimand, in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers ;

(*j*) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active service ;

(*k*) forfeiture in the case of a person sentenced to cashiering or dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such cashiering or dismissal ;

(*l*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

72. *Alternative punishments awardable by court-martial.*—Subject to the provisions of this Act, a court-martial may, on convicting a person subject to this Act of any of the offences specified in sections 34 to 68 inclusive, award either the particular punishment with which the offence is stated in the said sections to be punishable, or, in lieu thereof, any one of the punishments lower in the scale set out in section 71, regard being had to the nature and degree of the offence.

73. *Combination of punishments.*—A sentence of a court-martial may award in addition to, or without any one other punishment, the punishment specified in clause (*d*) or clause (*e*) of section 71 and any one or more of the punishments specified in clauses (*f*) to (*l*) of that section.

74. *Cashiering of officers.*—An officer shall be sentenced to be cashiered before he is awarded any of the punishments specified in clauses (*a*) to (*c*) of section 71.

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75. *Field punishment.*—Where any person subject to this Act and under the rank of warrant officer commits any offence on active service, it shall be lawful for a court-martial to award for that offence any such punishment as is prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb and shall not include flogging.

76. *Position of field punishment in scale of punishments.*—Field punishment shall for the purpose of commutation be deemed to stand next below dismissal in the scale of punishments specified in section 71.

77. *Result of certain punishments in the case of a warrant officer or non-commissioned officer.*—A warrant officer or a non-commissioned officer sentenced by a court-martial to transportation, imprisonment, filed punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

78. *Retention in the ranks of a person convicted on active service.*—When, on active service, any enrolled person has been sentenced by a court-martial to dismissal, or to transportation or imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of transportation or imprisonment, if any.

79. *Punishments otherwise than by court-martial.*—Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a court-martial and in the manner stated in sections 80, 83, 84 and 85.

80. *Punishment of persons other than officers, junior commissioned officers and warrant officers.*—Subject to the provisions of section 81, a commanding officer or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief, may, in the prescribed manner, proceed against a person subject to this Act otherwise than as an officer, junior commissioned officer or warrant officer who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(*a*) imprisonment in military custody up to twenty-eight days;

(*b*) detention up to twenty-eight days;

(*c*) confinement to the lines up to twenty-eight days;

(*d*) extra guards or duties;

(*e*) deprivation of a position of the nature of an appointment or of corps or working pay, and in the case of non-commissioned officers, also deprivation of acting rank or reduction to a lower grade of pay;

(*f*) forfeiture of good service and good conduct pay;

(*g*) severe reprimand or reprimand;

(*h*) fine up to fourteen days' pay in any one month;

(*i*) penal deductions under clause (*g*) of section 91;

(*j*) any prescribed field punishment up to twenty-eight days, in the case of a person on active service,

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81. *Limit of punishments under section 80.*—(*1*) An award of punishment under section 80 shall not include field punishment in addition to one or more of the punishments specified in clauses (*a*), (*b*) and (*c*) of that section.

(*2*) In the case of an award of two or more of the punishments specified in clauses (*a*), (*b*), (*c*) and (*d*) of the said section, the punishment specified in clause (*c*) or clause (*d*) shall take effect only at the end of the punishment specified in clause (*a*) or clause (*b*).

(*3*) When two or more of the punishments specified in the said clauses (*a*), (*b*) and (*c*) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(*4*) The punishments specified in clauses (*a*), (*b*), (*c*) and (*j*), of section 80 shall not be awarded to any person who is of the rank of non-commissioned officer or was, at the time of committing the offence for which he is punished, of such rank.

(*5*) The punishment specified in clause (*g*) of the said section shall not be awarded to any person below the rank of a non-commissioned officer.

82. *Punishments in addition to those specified in section 80.*—The Commander-in-Chief may, with the consent of the Central Government, specify such other punishments as may be awarded under section 80 in addition to or without any of the punishments specified in the said section, and the extent to which such other punishments may be awarded.

83. *Punishment of officers, junior commissioned officers and warrant officers by brigade commanders and others.*—An officer having power not less than a brigade, or an equivalent commander or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may in the prescribed manner, proceed against an officer below the rank of a field officer, a junior commissioned officer or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(*a*) severe reprimand or reprimand;

(*b*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

84. *Punishment of officers, junior commissioned officers and warrant officers by area commanders and others.*—An officer having power not less than an area commander or an equivalent commander or an officer empowered to convene a general court-martial or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may, in the prescribed manner, proceed against an officer below the rank of lieutenant-colonel, a junior commissioned officer or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(*a*) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a court-martial;

(*b*) severe reprimand or reprimand;

(*c*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

85. *Punishment of junior commissioned officers.*—A commanding officer or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may, in the prescribed manner, proceed against a junior commissioned officer who is charged with an offence under this Act and award the punishment of stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

86. *Transmission of proceedings.*—In every case in which punishment has been awarded under any of the sections 83, 84 and 85, certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment, to a superior military authority as defined in section 88.

87. *Review of proceedings.*—If any punishment awarded under any of the sections 83, 84 and 85 appears to a superior military authority as defined in section 88 to be illegal, unjust or excessive, such authority may cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

88. *Superior military authority.*—For the purpose of sections 86 and 87, a 'superior military authority' means—

(*a*) in the case of punishments awarded by a commanding officer, any officer superior in command to such commanding officer;

(*b*) in the case of punishments awarded by any other authority, the Central Government, the Commander-in-Chief or other officer specified by the Commander-in-Chief.

89. *Collective fines.*—(*1*) Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company or other similar unit is lost or stolen, the officer commanding the army, army corps, division or independent brigade to which such unit belongs may, after obtaining the report of a court of inquiry, impose a collective fine upon the junior commissioned officers, warrant officers, non-commissioned officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(*2*) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER VIII

Penal Deductions

90. *Deductions from pay and allowances of officers.*—The following penal deductions may be made from the pay and allowances of an officer, that is to say,—

(*a*) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Central Government;

(*b*) all pay and allowances for every day while he is in custody or under suspension from duty on a charge for an offence for which he is afterwards convicted by a Criminal Court or a court-martial or by an officer exercising authority under section 83 or section 84;

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(*c*) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(*d*) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by the court-martial by whom he is convicted of such offence, or by an officer exercising authority under section 83 or section 84;

(*e*) all pay and allowances ordered by a court-martial or an officer exercising authority under section 85 to be forfeited or stopped;

(*f*) any sum required to pay a fine awarded by a criminal court or a court-martial exercising jurisdiction under section 69;

(*g*) any sum required to make good any loss, damage, or destruction of public or regimental property which, after due investigation, appears to the Central Government to have been occasioned by the wrongful act or negligence on the part of the officer;

(*h*) all pay and allowances forfeited by order of the Central Government if the officer is found by a court of inquiry constituted by the Commander-in-Chief in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;

(*i*) any sum required by order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

91. *Deductions from pay and allowances of persons other than officers.*— Subject to the provisions of section 94 the following penal deductions may be made from the pay and allowances of a person subject to this Act other than an officer, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of transportation or imprisonment awarded by a criminal court, a court-martial or an officer exercising authority under section 80, or of field punishment awarded by a court-martial or such officer;

(*b*) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal Court or a court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment or field punishment by an officer exercising authority under section 80;

(*c*) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(*d*) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Central Government or such officer as may be specified by that Government;

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(*e*) all pay and allowances ordered by a court-martial or by an officer exercising authority under any of the sections 80, 83, 84 and 85, to be forfeited or stopped;

(*f*) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of, the enemy;

(*g*) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his commanding officer;

(*h*) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 69, or an officer exercising authority under any of the sections 80 and 89;

(*i*) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

92. *Computation of time of absence or custody.*—For the purposes of clauses (*a*) and (*b*) of section 91,—

(*a*) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another, for six consecutive hours or upwards;

(*b*) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person;

(*c*) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(*d*) a period of absence, or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

93. *Pay and allowances during trial.*—In the case of any person subject to this Act who is in custdoy or under suspension from duty on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (*b*) of sections 90 and 91.

94. *Limit of certain deductions.*—The total deductions from the pay and allowances of a person made under clauses (*e*), (*g*) to (*i*) of section 91 shall not, except where he is sentenced to dismissal, exceed in any one month one-half of his pay and allowances for that month.

95. *Deductions from public money due to a person.*—Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

96. *Pay and allowances of prisoner of war during inquiry into his conduct.*—Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of, the enemy, is to be inquired into under

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this Act or any other law, the Commander-in-Chief or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

97. *Remission of deductions.*—Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent, and by such authority, as may from time to time be prescribed.

98. *Provision for dependants of prisoner of war from remitted deductions.*—In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under clause (*h*) of section 99 or clause (*a*) of section 91, but in respect of whom a remission has been made under section 97, it shall be lawful for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

99. *Provision for dependants of prisoner of war from his pay and allowances.*—It shall be lawful for proper provision to be made by the prescribed authorities for any dependants of any person subject to this Act who is a prisoner of war or is missing, out of his pay and allowances.

100. *Period during which a person is deemed to be a prisoner of war.*—For the purposes of sections 98 and 99, a person shall be deemed to continue to be a prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 96, and if he is cashiered or dismissed from the service in consequence of such conduct, until the date of such cashiering or dismissal.

CHAPTER IX

Arrest and Proceedings before Trial

101. *Custody of offenders.*—(*1*) Any person subject to this Act who is charged with an offence may be taken into military custody.

(*2*) Any such person may be ordered into military custody by any superior officer.

(*3*) An officer may order into military custody any officer, though he may be of a higher rank, engaged in a quarrel, affray or disorder.

102. *Duty of commanding officer in regard to detention.*—(*1*) It shall be the duty of every commanding officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

(*2*) The case of every person being detained in custody beyond a period of forty-eight hours, and the reason thereof, shall be reported by the commanding officer to the general or other officer to whom application would be made to convene a general or district court-martial for the trial of the person charged.

(*3*) In reckoning the period of forty-eight hours specified in sub-section (*1*), Sundays and other public holidays shall be excluded.

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(4) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in military custody, pending the trial by any competent authority for any offence committed by him.

103. *Interval between committal and court-martial.*—In every case where any such person as is mentioned in section 101 and as is not on active service remains in such custody for a longer period than eight days, without a court-martial for his trial being ordered to assemble, a special report giving reasons for the delay shall be made by his commanding officer in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days until a court-martial is assembled or such person is released from custody.

104. *Arrest by civil authorities.*—Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any magistrate or police officer, such magistrate or police officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

105. *Capture of deserters.*—(1) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs, shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, into military custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

106. *Inquiry into absence without leave.*—(1) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled, and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any, and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

107. *Provost-marshals.*—(1) Provost-marshals may be appointed by the Commander-in-Chief or by any prescribed officer.

(2) The duties of a provost-marshal are to take charge of persons confined for any offence, to preserve good order and discipline, and to prevent breaches of the same by persons serving in, or attached to, the regular Army.

(3) A provost-marshal may at any time arrest and detain for trial any person subject to this Act who commits, or is charged with an offence and may

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also carry into effect any punishment to be inflicted in pursuance of the sentence awarded by a court-martial, or by an officer exercising authority under section 80 but shall not inflict any punishment on his own authority:

Provided that no officer shall be so arrested or detained otherwise than on the order of another officer.

(4) For the purposes of sub-sections (2) and (3), a provost-marshal shall be deemed to include a provost-marshal appointed under any law for the time being in force relating to the Government of the Navy or Air Force, and any person legally exercising authority under him or on his behalf.

CHAPTER X

COURTS-MARTIAL

108. *Kinds of courts-martial.*—For the purposes of this Act there shall be four kinds of courts-martial, that is to say,—

(a) general courts-martial;

(b) district courts-martial;

(c) summary general courts-martial; and

(d) summary courts-martial.

109. *Power to convene a general court-martial.*—A general court-martial may be convened by the Central Government or the Commander-in-Chief or by any officer empowered in this behalf by warrant of the Commander-in-Chief.

110. *Power to convene a district court-martial.*—A district court-martial may be convened by an officer having power to convene a general court-martial or by any officer empowered in this behalf by warrant of any such officer.

111. *Contents of warrants issued under sections 109 and 110.*—A warrant issued under section 109 or section 110 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

112. *Power to convene a summary general court-martial.*—The following authorities shall have power to convene a summary general court-martial, namely,—

(a) an officer empowered in this behalf by an order of the Central Government or of the Commander-in-Chief;

(b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;

(c) an officer commanding any detached portion of the regular Army on active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by a general court-martial.

113. *Composition of general court-martial.*—A general court-martial shall consist of not less than five officers, each of whom has held a commission for not less than three whole years and of whom not less than four are of a rank not below that of captain.

114. *Composition of district court-martial.*—A district court-martial shall consist of not less than three officers, each of whom has held a commission for not less than two whole years.

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115. *Composition of summary general court-martial.*—A summary general court-martial shall consist of not less than three officers.

116. *Summary court-martial.*—(*1*) A summary court-martial may be held by the commanding officer of any corps, department or detachment of the regular Army, and he shall alone constitute the court.

(*2*) The proceedings shall be attended throughout by two other persons who shall be officers or junior commissioned officers or one of either, and who shall not as such, be sworn or affirmed.

117. *Dissolution of courts-martial.*—(*1*) If a court-martial after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(*2*) If, on account of the illness of the judge advocate or of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(*3*) The officer who convened a court-martial may dissolve such court-martial if it appears to him that military exigencies or the necessities of discipline render it impossible or inexpedient to continue the said court-martial.

(*4*) Where a court-martial is dissolved under this section, the accused may be tried again.

118. *Powers of general and summary general courts-martial.* A general or summary general court-material shall have power to try any person subject to this Act for any offence punishable therein and to pass any sentence authorised thereby.

119. *Powers of district courts-martial.*—A district court-martial shall have power to try any person subject to this Act other than an officer or a junior commissioned officer for any offence made punishable therein, and to pass any sentence authorised by this Act other than a sentence of death, transportation, or imprisonment for a term exceeding two years:

Provided that a district court-martial shall not sentence a warrant officer to imprisonment.

120. *Powers of summary courts-martial.*—(*1*) Subject to the provisions of sub-section (*2*), a summary court-martial may try any offence punishable under this Act.

(*2*) When there is no grave reason for immediate action and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial or on active service, a summary general court-martial for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any offence punishable under any of the sections 34, 37 and 69, or any offence against the officer holding the court.

(*3*) A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer, junior commissioned officer or warrant officer.

(*4*) A summary court-martial may pass any sentence which may be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding the limit specified in sub-section (*5*).

(*5*) The limit referred to in sub-section (*4*) shall be one year if the officer holding the summary court-martial is of the rank of lieutenant-colonel and upwards, and three months if such officer is below that rank.

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121. *Prohibition of second trial.*—When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been dealt with under any of the sections 80, 83, 84 and 85, he shall not be liable to be tried again for the same offence by a court-martial or dealt with under the said sections.

122. *Period of limitation for trial.*—(*1*) Except as provided by sub-section (*2*), no trial by court-martial of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(*2*) The provisions of sub-section (*1*) shall not apply to a trial for an offence of desertion or fraudulent enrolment or for any of the offences mentioned in section 37.

(*3*) In the computation of the period of time mentioned in sub-section (*1*), any time spent by such person as a prisoner of war, or in enemy territory, or in evading arrest after the commission of the offence, shall be excluded.

(*4*) No trial for an offence of desertion other than desertion on active service or of fraudulent enrolment shall be commenced if the person in question, not being on officer, has subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of the regular Army.

123. *Liability of offender who ceases to be subject to Act.*—(*1*) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in military custody, and tried and punished for such offence as if he continued to be so subject.

(*2*) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or fraudulent enrolment or for any of the offences mentioned in section 37 or shall affect the jurisdiction of a criminal court to try any offence triable by such court as well as by a court-martial.

(*3*) When a person subject to this Act is sentenced by a court-martial to transportation or imprisonment, this Act shall apply to him during the term of his sentence, though he is cashiered or dismissed from the regular Army, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(*4*) When a person subject to this Act is sentenced by a court-martial to death, this Act shall apply to him till the sentence is carried out.

124. *Place of trial.*—Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

125. *Choice between criminal court and court-martial.*—When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the officer commanding the army, army corps, division or independent brigade in which the accused person is serving or such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and, if that officer decides that they should be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

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126. *Power of criminal court to require delivery of offender.*—(*1*) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, required the officer referred to in section 125 at his option, either to deliver over the offender to the nearest magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Central Government.

(*2*) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Central Government, whose order upon such reference shall be final.

127. *Successive trials by a criminal court and court-martial.*—(*1*) A person convicted or acquitted by a court-martial may, with the previous sanction of the Central Government, be tried again by a criminal court for the same offence, or on the same facts.

(*2*) If a person sentenced by a court-martial under this Act or punished under any of the sections 80, 83, 84 or 85 is afterwards tried and convicted by a criminal court for the same offence, or on the same facts, that court shall, in awarding punishment, have regard to the punishment he may already have undergone for the said offence.

CHAPTER XI

Procedure of Courts-martial

128. *Presiding officer.*—At every general, district or summary general court-martial the senior member shall be the presiding officer.

129. *Judge Advocate.*—Every general court-martial shall, and every district or summary general court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate-General, or if no such officer is available, an officer approved of by the Judge Advocate-General or any of his deputies.

130. *Challenges.*—(*1*) At all trials by general, district or summary general court-martial, as soon as the court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(*2*) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer decided on the objection.

(*3*) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(*4*) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

131. *Oaths of member, judge advocate and witness.*—(*1*) An oath or affirmation in the prescribed manner shall be administered to every member of

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every court-martial and to the judge advocate before the commencement of the trial.

(2) Every person giving evidence before a court-martial shall be examined after being duly sworn or affirmed in the prescribed form.

(3) The provision of sub-section (2) shall not apply where the witness is a child under twelve years of age and the court-martial is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

132. *Voting by members.*—(1) Subject to the provisions of sub-section (2) and (3), every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a general court-martial without the concurrence of at least two-thirds of the members of the court.

(3) No sentence of death shall be passed by a summary general court-martial without the concurrence of all the members.

(4) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.

133. *General rule as to evidence.*—The Indian Evidence Act, 1872 (I of 1872), shall, subject to the provisions of this Act, apply to all proceedings before a court-martial.

134. *Judicial notice.*—A court-martial may take judicial notice of any matter within the general military knowledge of the members.

135. *Summoning witnesses.*—(1) The convening officer, the presiding officer of a court-martial, the judge advocate or the commanding officer of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to military authority, the summons shall be sent to his commanding officer, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

136. *Documents exempted from production.*—(1) Nothing in section 135 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 (I of 1872), or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(2) If any document in such custody is, in the opinion of any district magistrate, chief presidency magistrate, High Court or Court of Session, wanted for the purpose of any court-martial, such magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or Court may direct.

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(*3*) If any such document is, in the opinion of any other magistrate or of any commissioner of police or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, chief presidency magistrate or High Court or Court of Session.

137. *Commissions for examination of witnesses.*—(*1*) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate-General in order that a commission to take the evidence of such witness may be issued.

(*2*) The Judge Advocate-General may then, if he thinks necessary, issue a commission to any district magistrate or magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(*3*) The magistrate or officer to whom the commission is issued, or, if he is the district magistrate, he or such magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in a Part B State.

(*4*) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XL of the Code of Criminal Procedure, 1898 (Act V of 1898), or of any corresponding law in force in a Part B State.

(*5*) In this and the next succeeding section, the expression "Judge Advocate General" includes a Deputy Judge Advocate-General.

138. *Examination of a witness on commission.*—(*1*) The prosecutor and the accused person in any case in which a commission is issued under section 137 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the magistrate or officer executing the commission shall examine the witness upon such interrogatories.

(*2*) The prosecutor and the accused person may appear before such magistrate or officer by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(*3*) after a commission issued under section 137 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate-General.

(*4*) On receipt of a commission and deposition returned under sub-section (*3*), the Judge Advocate-General shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

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(5) In every case in which a commission is issued under section 137, the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

139. *Conviction of offence not charged.*—(1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a court-martial with attempting to desert may be found guilty of being absent without leave.

(3) A person charged before a court-martial with using criminal force may be found guilty of assault.

(4) A person charged before a court-martial with using threatening language may be found guilty of using insubordinate language.

(5) A person charged before a court-martial with any one of the offences specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 52 may be found guilty of any other of these offences with which he might have been charged.

(6) A person charged before a court-martial with an offence punishable under section 69 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), were applicable.

(7) A person charged before a court-martial with any offence under this Act, may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(8) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

140. *Presumption as to signatures.*—In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

141. *Enrolment paper.*—(1) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

(2) The enrolment of such person may be proved by the production of the original or a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

142. *Presumption as to certain documents.*—(1) A letter, return or other document respecting the service of any person in, or the cashiering, dismissal or discharge of any person from, any portion of the regular Army, or respecting the circumstance of any person not having served in, or belonged to, any portion of the Forces, if purporting to be signed by or on behalf of the Central Government or the Commander-in-Chief, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(2) An Army, Navy or Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers,

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junior commissioned officers or warrant officers therein mentioned, and of any appointment held by them and of the corps, battalion or arm or branch of the services to which they belong.

(3) Where a record is made in any regimental book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(4) a copy of any record in any regimental book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below portion of the regular Army, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the commanding officer of that portion of the regular Army, or by the commanding officer of the corps, department or detachment to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be evidence of the matters so stated.

(6) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

143. *Reference by accused to Government officer.*—(1) If at any trial for desertion or absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

144. *Evidence of previous convictions and general character.*—(1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of any previous convictions of such person, either by a court-martial or by a

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criminal court, or any previous award of punishment under any of the sections 80, 83, 84 and 85, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

145. *Lunacy of accused.*—(1) Whenever, in the course of a trial by a court-martial, it appears to the court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he, committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the court shall record a finding accordingly.

(2) The presiding officer of the court, or, in the case of a summary court-martial, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 162, as the case may be.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was charged.

(4) The authority to whom the finding of a summary court-martial is reported under sub-section (2), and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4) the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

146. *Subsequent fitness of lunatic accused for trial.*—Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 145, the officer commanding the army, army corps, division or brigade within the area of whose command the accused is in custody or is detained, or any other officer prescribed in this behalf, may—

(a) if such person is in custody under sub-section (4) of section 145, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in a jail under sub-section (5) of section 145, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section on a

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certificate of any two or more of the visitors of such asylum that he is capable of making his defence,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, if the offence is a civil offence, by a criminal court.

147. *Transmission to Central Government of orders under section 146.*—A copy of every order made by an officer under section 146 for the trial of the accused shall forthwith be sent to the Central Government.

148. *Release of lunatic accused.*—Where any person is in custody under sub-section (*4*) of section 145 or under detention under sub-section (*5*) of that section—

(*a*) if such person is in custody under the said sub-section (*4*), on the report of a medical officer, or

(*b*) if such person is detained under the said sub-section (*5*), on a certificate from any of the authorities mentioned in clause (*b*) of section 146 that, in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

149. *Delivery of lunatic accused to relatives.*—Where any relative or friend of any person who is in custody under sub-section (*4*) of section 145 or under detention under sub-section (*5*) of that section desires that he should be delivered to his care and custody, the Central Government may upon application by such relative or friend and on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of and prevented from doing injury to himself or any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

150. *Order for custody and disposal of property pending trial.*—When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

151. *Order for disposal of property regarding which offence is committed.*—(*1*) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial, or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

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(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a magistrate within whose jurisdiction such property for the time being is situated, and such magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in a Part B State.

(3) In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

152. *Powers of court-martial in relation to proceedings under this Act.*—Any trial by a court-martial under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the court-martial shall be deemed to be a court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

CHAPTER XII

Confirmation and Revision

153. *Finding and sentence not valid, unless confirmed.*—No finding or sentence of a general, district or summary general, court-martial shall be valid except so far as it may be confirmed as provided by this Act.

154. *Power to confirm finding and sentence of general court-martial.*—The findings and sentences of general courts-martial may be confirmed by the Central Government, or by ay officer empowered in this behalf by warrant of the Central Government.

155. *Power to confirm finding and sentence of district court-martial.*—The findings and sentences of general courts-martial may be confirmed by the officer having power to convene a general court-martial or by any officer empowered in this behalf by warrant of such officer.

156. *Limitation of powers of confirming authority.*—A warrant issued under section 154 or section 155 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

157. *Power to confirm finding and sentence of summary general court-martial.*—The findings and sentences of summary general courts-martial may be confirmed by the convening officer or if he so directs, by an authority superior to him.

158. *Power of confirming authority to mitigate, remit or commute sentences.*—(1) Subject to such restrictions, reservations or conditions as may be contained in any warrant issued under section 154 or section 155 and to the provision of sub-section (2), a confirming authority may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded or commute that punishment for any punishment or punishments lower in the scale laid down in section 71.

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(2) A sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

159. *Confirming of findings and sentences on board a ship.*—When any person subject to this Act is tried and sentenced by a court-martial while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

160. *Revision of finding or sentence.*—(1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming authority and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a summary general or district court-martial, of three officers.

161. *Finding and sentence of a summary court-martial.*—(1) Save as otherwise provided in sub-section (2), the finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith.

(2) If the officer holding the trial is of less than five years service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than a brigade.

162. *Transmission of proceedings of summary courts-martial.*—(1) The proceedings of every summary court-martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the prescribed officer; and such officer, or the Commander-in-Chief, or any officer empowered in this behalf by the Commander-in-Chief, may, for reasons based on the merits of the case, but not any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed.

163. *Alteration of finding or sentence in certain cases.*—(1) Where a finding of guilty by a court-martial, which has been confirmed, or which does not require confirmation, is found for any reason to be invalid or cannot be suported by the evidence, the authority which would have had power under section 179 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the court-martial on the charge and unless it appears that the court-martial must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid the authority referred to in sub-section (1) may pass a valid sentence.

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(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed, under this section shall, for the purposes of this Act and the rules made thereunder, have effect as if it were a finding or sentence, as the case may be, of a court-martial.

164. *Remedy against order, finding or sentence of court-martial.*—(1) Any person subject to this Act who considers himself aggrieved by any order passed by any court-martial may present a petition to the officer or authority empowered to confirm any finding or sentence of such court-martial, and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any court-martial which has been confirmed may present a petition to the Central Government, the Commander-in-Chief or any prescribed officer superior in command to the one who confirmed such finding or sentence and the Central Government, the Commander-in-Chief or other officer, as the case may be, may pass such order thereon as it or he thinks fit.

165. *Annulment of proceedings.*—The Central Government, the Commander-in-Chief or any prescribed officer may annual the proceedings of any court-martial on the ground that they are illegal or unjust.

CHAPTER XIII

Execution of Sentences

166. *Form of sentence of death.*—In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

167. *Commencement of sentence of transportation or imprisonment.*—Whenever any person is sentenced by a court-martial under this Act to transportation or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer or, in the case of a summary court-martial, by the court.

168. *Execution of sentence of transportation.*—Whenever any sentence of transportation is passed under this Act or whenever any sentence of death is commuted to transportation, the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

169. *Execution of sentence of imprisonment.*—(1) Whenever any sentence of imprisonment is passed under this Act by a court-martial or whenever any sentence of death or transportation is commuted to imprisonment, the confirming officer or in case of a summary court-martial the officer holding the court

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or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (*3*) and (*4*), direct either that the sentence shall be carried out by confinement in a military prison or that it shall be carried out by confinement in a civil prison.

(*2*) When a direction has been made under sub-section (*1*) the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(*3*) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a court-material, the apporpriate officer under sub-section (*1*) may direct that the sentence shall be carried out by confinement in military custody instead of in a civil or military prison.

(*4*) On active service, a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint.

170. *Temporary custody of offender.*—Where a sentence of transportation or imprisonment is directed to be undergone in a civil prison the offender may be kept in a military prison or in military custody or in any other fit place, till such time as it is possible to send him to a civil prison.

171. *Execution of sentence of imprisonment in special cases.*—Whenever, in the opinion of an officer commanding an army, army corps, division or independent brigade, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in a military prison or in military custody in accordance with the provisions of section 169 such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

172. *Conveyance of prisoner from place to place.*—A person under sentence of transportation or imprisonment may during his conveyance from place to place, or when on board ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

173. *Communication of certain orders to prison officers.*—Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil or military prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed to the officer in charge of the prison in which such person is confined.

174. *Execution of sentence of fine.*—When a sentence of fine is imposed by a court-martial under section 69 whether the trial was held within India or not, a copy of such sentence, signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any magistrate in India, and such magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in a Part B State for the levy of fines as if it were a sentence of fine imposed by such magistrate.

175. *Establishment and regulation of military prisons.*—The Central Government may set apart any building or part of a building, or any place under

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its control, as a military prison for the confinement of persons sentenced to imprisonment under this Act.

176. *Informality or error in the order or warrant.*—Whenever any person is sentenced to trasportation or imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into or is confined in any such place, and any such order, warrant or document may be amended accordingly.

177. *Power to make rules in respect of prisons and prisoners.*—The Central Government may make rules providing—

(*a*) for the government, management and regulation of military prisons;

(*b*) for the appointment, removal and powers of inspectors, visitors, governors and officers thereof;

(*c*) for the labour of prisoners undergoing confinement therein, and for enabling persons to earn, by special industry and good conduct, a remission of a portion of their sentence;

(*d*) for the safe custody of prisoners and the maintenance of discipline among them and the punishment, by personal correction, restraint or otherwise, of offences committed by prisoners;

(*e*) for the application to military prisons of any of the provisions of the Prisons Act, 1894 (IX of 1894), relating to the duties of officers of prisons and the punishment of persons not being prisoners;

(*f*) for the admission into any prison, at proper times and subject to proper restrictions, of persons with whom prisoners may desire to communicate, and for the consultation by prisoners under trial with their legal advisers without the presence as far as possible of any third party within hearing distance.

178. *Restriction of rule-making power in regard to corporal punishment.*—Rules made under section 177 shall not authorise corporal punishment to be inflicted for any offence, nor render the imprisonment more severe than it is under the law for the time being in force relating to civil prisons.

CHAPTER XIV

Pardons, Remissions and Suspensions

179. *Pardon and remission.*—When any person subject to this Act has been convicted by a court-martial of any offence, the Central Government or the Commander-in-Chief or, in the case of a sentence, which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of conviction was serving, or the prescribed officer may—

(*a*) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

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(*b*) mitigate the punishment awarded; or

(*c*) commute such punishment for any less punishment or punishments mentioned in this Act:

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court; or

(*d*) either with or without conditions which the person sentenced accepts, release the person on parole.

180. *Cancellation of conditional pardon, release on parole or remission.*—(*1*) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon, release or remission had not been granted.

(*2*) A person whose sentence of transportation or imprisonment is carried into effect under the provisions of sub-section (*1*) shall undergo only the unexpired portion of his sentence.

181. *Reduction of warrant officer or non-commissioned officer.*—When under the provisions of section 77 a warrant officer or a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purpose of section 179, be treated as a punishment awarded by a sentence of a court-martial.

182. *Suspension of sentence of transportation or imprisonment.*—(*1*) Where a person subject to this Act is sentenced by a court-martial to transportation or imprisonment, the Central Government, the Commander-in-Chief or any officer empowered to convene a general or a summary general court-martial may suspend the sentence whether or not the offender has already been committed to prison or to military custody.

(*2*) The authority or officer specified in sub-section (*1*) may in the case of an offender so sentenced direct that, until the orders of such authority or officer have been obtained the offender shall not be committed to prison or to military custody.

(*3*) The powers conferred by sub-sections (*1*) and (*2*) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

183. *Orders pending suspension.*—(*1*) Where the sentence referred to in section 182 is imposed by a court-martial other than a summary court-martial, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to military custody until the orders of the authority or officer specified in section 182 have been obtained.

(*2*) Where a sentence of imprisonment is imposed by a summary court-martial, the officer holding the trial or the officer authorised to approve of the sentence under sub-section (*2*) of section 161 may make the direction referred to in sub-section (*1*).

184. *Release on suspension.*—Where a sentence is suspended under section 182, the offender shall forthwith be released from custody.

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185. *Computation of period of suspension.*—Any period during which the sentence is under supension shall be reckoned as part of the term of such sentence.

186. *Order after suspension.*—The authority or officer specified in section 182 may, at any time while a sentence is suspended, order—

(*a*) that the offender be committed to undergo the unexpired portion of the sentence, or

(*b*) that the sentence be remitted.

187. *Reconsideration of case after suspension.*—(*1*) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 182, or by any general or other officer not below the rank of field officer duly authorised by the authority or officer specified in section 182.

(*2*) Where on such reconsideration by the officer so authorised it appears to him that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 182.

188. *Fresh sentence after suspension.*—Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(*a*) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(*b*) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or military custody for the unexpired portion of the previous sentence but both sentences shall run concurrently; and

(*c*) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 186 or section 187, continue to be suspended.

189. *Scope of power of suspension.*—The powers conferred by sections 182 and 186 shall be in addition to and not in derogation of the power of mitigation, remission and commutation.

190. *Effect of suspension and remission on dismissal.*—(*1*) Where in addition to any other sentence the punishment of dismissal has been awarded by a court-martial, and such other sentence is suspended under section 182, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 182.

(*2*) If such other sentence is remitted under section 186, the punishment of dismissal shall also be remitted.

CHAPTER XV

Rules

191. *Power to meke rules.*—(*1*) The Central Government may make rules for the pupose of carrying into effect the provisions of this Act.

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(2) Without prejudice to the genrality of the power conferred by sub-section (1), the rules made thereunder may provide for—

(a) the removal, retirement, release or discharge from the service of persons subject to this Act;

(b) the amount and incidence of fines to be imposed under section 89;

(c) the specification of the punishments which may be awarded as field punishments under sections 75 and 80;

(d) the assembly and procedure of courts of inquiry, the recording of summaries of evidence and the administration of oaths or affirmations by such courts;

(e) the convening and constituting of courts-martial and the appointment of prosecutors at trials by courts-martial;

(f) the adjournment, dissolution and sitting of courts-martial;

(g) the procedure to be observed in trials by courts-martial and the appearance of legal practitioners thereat;

(h) the confirmation, revision and annulment of, and petitions against, the findings and sentences of courts-martial;

(i) the carrying into effect of sentences of courts-martial;

(j) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation and imprisonment;

(k) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 99, and the due carrying out of such decisions;

(l) the relative rank of the officers, junior commissioned officers, warrant officers, petty officers and non-commissioned officers of the regular Army, Navy and Air Force when acting together;

(m) any other matter directed by this Act to be prescribed.

192. *Power to make regulations.*—The Central Government may make regulations for all or any of the purposes of this Act other than those specified in section 191.

193. *Publication of rules and regulations in Gazette.*—All rules and regulations made under this Act shall be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Act.

194. *Repeals.*—The Acts and Ordinances mentioned in the Schedule are hereby repealed.

CHAPTER XVI

Transitory Provisions

195. *Definition of "British officer".*—(1) In this Chapter "British officer" means a person of non-Indian domicile holding a commission in His Majesty's Land Forces or in the Royal Marines or in the Territorial Army and serving in the regular Army.

(2) The expression "superior officer" in this Act shall be deemed to include a British officer.

196. *Powers of British officer.*—A British officer shall have all the powers conferred by this Act on an officer of corresponding rank or holding a corresponding appointment,

THE SCHEDULE

(*See* section 194.) 689

Year	No.	Short title	Extent of repeal
1911	VIII	The Indian Army Act, 1911.	The whole, except Chapter XII.
1920	XX	The Indian Army (Suspension of Sentences) Act, 1920.	The whole.
1941	X	The Active Service Ordinance, 1941.	The whole.
1943	XXXVI	The Prisoners of War (Forfeiture of Emoluments) Ordinance, 1943.	The whole.
1946	XIV	The Active Service (Amendment) Ordinance, 1946.	The whole.

K. V. K. SUNDARAM, *Secy.*

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